

CIVIL SERVICE COMMISSION MINUTES
APRIL 2, 2008

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 of the County Administration Center, 1600 Pacific Highway, San Diego, California.

Present were:

Francesca Krauel
W. Dale Bailey
A.Y. Casillas
Barry I. Newman

Absent was:

None

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer
William D. Smith, Senior Deputy County Counsel

Selinda Hurtado-Miller, Reporting

Approved
Civil Service Commission

May 7, 2008

COUNTY OF SAN DIEGO
CIVIL SERVICE COMMISSION MINUTES
APRIL 2, 2008

1:30 P.M. CLOSED SESSION: Discussion of Personnel Matters
 and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San
 Diego, California

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
3,4,5,6			

COMMENTS: Motion by Newman to approve all items not held for
discussion; seconded by Casillas. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 400B
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this
location to hear the announcement of the
closed session agenda.

- A. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: Independent Contractor to Assist Hearing
Officers
- B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED
LITIGATION (54956.9(b)(3)(E)) One potential case.
- C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED
LITIGATION (54956.9(b)(3)(A)) Two potential cases.

OPEN SESSION AGENDA
County Administration Center, Room 358

MINUTES

1. Approval of the Minutes of the regular meeting of March 5,
2008.

Approved.

CONFIRMATION OF ASSIGNMENT

2. Commissioner Krauel: **Tracy Martin**, former Human Service Specialist, appealing a Final Order to Remove from the Health and Human Services Agency.

Confirmed.

DISCRIMINATION

Findings

3. and 4. Commissioner Bailey: Dennis J. Hayes, Esq., on behalf of **DawnElla Gilzean**, and **Barbara McDonald**, Deputies Public Defender IV, alleging gender discrimination by the Office of the Public Defender.

FINDINGS AND RECOMMENDATIONS:

The matter of the complaints of DawnElla Gilzean and Barbara McDonald (hereinafter referred to as Employees), Deputy Public Defenders IV, Department of the Public Defender (hereinafter referred to as Department), under Rule VI of the Civil Service Rules of the County of San Diego was presented to the Civil Service Commission. The Commission appointed W. Dale Bailey, one of its members, to hear the appeal and submit findings, conclusions and recommendations to the Commission. Thereafter, the matter was duly noticed and was heard on January 3, 8, 9, 10, and February 21, 2008. The official file of the proceedings shows that Employees filed their complaints with the Commission on January 12, 2007, alleging gender discrimination when they were not selected for the classification of Deputy Public Defender V by the Public Defender.

The hearing was conducted pursuant to Section 6.1.8 of the Civil Service Rules of the County of San Diego. Written and oral evidence was presented, oral arguments were made, and the matter submitted for decision. The Hearing Officer, having fully deliberated on the matter, makes and submits the following findings, conclusions and proposed decision. Employees DawnElla Gilzean and Barbara McDonald were two of eleven Deputy Public Defender applicants at the Level IV who were not selected for promotion to fourteen openings at Level V. They filed discrimination complaints, and after an investigation, the County Office of Internal Affairs ("OIA") found that Employees established probable cause for gender discrimination.

At the Commission hearing, evidence established that the number of female applicants was too small to give

statistical significance to their promotion rate. Additionally, the Department established a legitimate non-discriminatory basis for its all-male selection panel. Employees' claim of bias in supervisory assignments was contradicted by the evidence. The Department established that the exam scoring was fair and unbiased. Finally, upon closer examination, all of the events claimed by Employees to be circumstantial evidence of discrimination were contradicted by evidence rebutting any discriminatory motive or effect. Accordingly, it is hereby recommended that Employees' appeal be denied.

Motion by Bailey to approve Findings and Recommendations; seconded by Newman. Carried.

AYES:	BAILEY, CASILLAS, NEWMAN
NOES:	NONE
ABSTENTIONS:	NONE
ABSENT:	NONE
NOT PARTICIPATING:	KRAUEL

SELECTION PROCESS

Appeals

5. **Marin Garrison**, Equipment Operator, appealing his non-selection for the classification of Senior Equipment Operator by the Department of Public Works. (Continued from the March 5, 2008 meeting.)

RECOMMENDATION: Deny Request.

Kim Martinic, worksite organizer, SEIU Local 221, spoke on behalf of Marin Garrison. Mr. Garrison has come before the Commission requesting a Rule X hearing regarding the selection of an individual whom he feels was not qualified for the position. Specifically, Ms. Martinic wanted to clarify that there is a difference between storm drainage lines, and sewage lines. Ms. Martinic explained that the job announcement called for 3 years of wastewater experience. It is alleged that the current employee who was selected for the position does not meet this requirement.

There was discussion regarding the difference between the wastewater lines and sewage lines. There was further discussion regarding Mr. Garrison's previous disciplinary matters. Mr. Garrison assured the Commission that he has no current issues with the Department and its employees at this time.

Commissioner Krauel asked Chief Deputy County Counsel, William D. Smith, whether Mr. Garrison had standing on this issue since it does not directly affect him, but is directed at the individual who was promoted. County Counsel advised that Mr. Garrison did not have standing.

Motion by Krauel to deny request on the basis of lack of standing. Seconded by Casillas. Carried.

OTHER MATTERS

6. Employment of Independent Contractor to Assist Hearing Officers.

RECOMMENDATIONS: 1) Authorize County Counsel to prepare and execute an amendment to the current contract to increase the annual compensation limit as appropriate. 2) Authorize County Counsel to prepare and execute a new two-year contract covering the period July 2008 through June 2010.

Motion by Krauel to accept proposal; seconded by Casillas.

Motion by Newman to amend original motion to increase the recommended compensation by \$5.00 per hour for the two-year contract; seconded by Casillas.

Discussion:

Commissioner Krauel asked staff whether this increase would have a fiscal impact on the CSC budget. Commissioner Newman responded that he was aware of the impact, and he is making the motion with the awareness of the impact on the budget.

Vote on Amended Motion. Carried.

AYES:	BAILEY, CASILLAS, NEWMAN
NOES:	KRAUEL
ABSTENTIONS:	NONE
ABSENT:	NONE

Extension of Temporary Appointments

7. Health and Human Services Agency

1 Public Health Nurse II (Leann Phillips)

8. Sheriff's Department

5 Senior Fingerprint Examiners (Sergio Castellon, Aimee Cordova, Niki Zamora, Jennifer Sommerfeld, Brianna Toussaint)

RECOMMENDATION: Ratify Item Nos. 7 & 8.

Item Nos. 7 & 8 ratified.

9. Public Input.

ADJOURNED: **3:10 p.m.**

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION: MAY 7, 2008